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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,969	10/20/2003	Brian Minear	010530C1	4439
23696	7590	08/11/2005	EXAMINER	
Qualcomm Incorporated Patents Department 5775 Morehouse Drive San Diego, CA 92121-1714			GELIN, JEAN ALLAND	
			ART UNIT	PAPER NUMBER
			2681	

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/689,969

Applicant(s)

MINEAR ET AL.

Examiner

Jean A. Gelin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1-19 are rejected under 35 U.S.C. 102(a) as being anticipated by Kamada (US 2002/0123336).

Regarding claims 1, 6, and 7, Kamada teaches a system for displaying an interactive screen on the graphic display of a wireless device (10) communicating with network server prior to download of data to the wireless device (i.e., server requests the user to enter information for verification purpose, page 6 section 0083), the system comprising: one or more user-interactive wireless devices (i.e., a page is displayed for authentication, fig. 12), each wireless device (10) including a computer platform (typical to device 10) and a graphic display (screen of fig. 12) thereon, and each wireless device (10) in selective communication to a wireless network (page 6 section 0083); and one or more network servers in selective communication to the wireless network, and each network server selectively in communication with the one or more wireless devices and selectively downloading applications and data to wireless devices thereto (page 6, section 0085), wherein, upon a wireless device attempting to download data from a network server; across the wireless network, the system transmitting an interactive screen associated with the data to the computer platform of the wireless device across

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the wireless network prior to downloading the data to the wireless device (i.e., the user of the cellular phone receives a screen to sign in prior to purchase/download an application/data, sections 83 and 85), and the wireless device displaying the interactive screen on the graphic display thereof (i.e., user selects an application/data to be displayed on the display of the cellular phone, page 6, sections 0083 and 0085).

Regarding claim 2, Kamada teaches wherein, upon the user of the wireless device interacting with the interactive screen displayed on the graphic screen of the wireless device, the wireless device sending a signal to the network server indicating the interaction (i.e., user selects application, page 6 sections 0083 and 0085), and the network server downloading the requested data to the computer platform of the wireless device (page 6, sections 0083-0085).

Regarding claim 3, Kamada teaches wherein upon a wireless device attempting to download a software application from an network server across the wireless network, the system transmitting an interactive screen to the computer platform of the wireless device across the wireless network prior to downloading the requested software application to the wireless device, and the wireless device displaying the interactive screen on the graphic display thereof (page 6, sections 0083 and 0085).

Regarding claim 4, Kamada teaches wherein the interactive screen is transmitted to the wireless device from a first network server that the wireless device attempted to download data from (i.e., server requests user to enter ID, page 6, section 0083, screen of fig. 12).

Regarding claim 5, Kamada teaches wherein the interactive screen allows user input of data at the wireless device, and upon the user of the wireless device inputting data on the interactive screen displayed on the graphic screen of the wireless device, the wireless device sending the inputted data to the network server, and the network server processing the input data and selectively downloading the requested data to the computer platform of the wireless device (inputting data in fig. 12, and downloading application fig. 16, page 6, sections 0083-0085).

Regarding claims 8, and 13-15, Kamada teaches a method for displaying an interactive screen on the graphic display of a user interactive wireless devices (fig. 12) selectively communicating with network server and downloading applications and data therefrom (i.e., server requests the user to enter information for verification purpose, page 6 section 0083), the method comprising: attempting to download data to the wireless device from the network server across the wireless network (i.e., user accesses the sale server, page 6, section 0083); transmitting a interactive screen to the computer platform of the wireless device across the wireless network prior to downloading the requested data to the wireless device (server transmits a request to the user to enter his information for downloading application, page 6, sections 0083-0085); and displaying the interactive screen on the graphic display of the wireless device (fig. 12).

Regarding claim 9, Kamada teaches wherein attempting to download data to the wireless device from the network server across the wireless network includes

attempting to download a software application to the wireless device from a network server across the wireless network (page 1, section 0013 and page 6, section 0083).

Regarding claim 10, Kamada teaches interacting with the interactive screen at the wireless device (fig. 12); sending a signal to the network server from the wireless device indicating the interaction (page 6, section 0083); and downloading the requested data from the network server to the computer platform of the wireless device (fig. 16).

Regarding claim 11, Kamada teaches wherein transmitting an interactive screen to the wireless device across the wireless network includes transmitting an interactive screen from the network server to the wireless device across the wireless network (i.e., is page to enter user ID in response to server request, page 6, section 0083).

Regarding claims 12, 16, Kamada teaches wherein the interactive screen allows user input of data at the wireless device (i.e., entering ID and password in fig. 12), and further comprising: inputting data on the interactive screen displayed on the graphic screen of the wireless device (i.e., entering ID and password, fig. 12); sending the inputted data from the wireless device to the network server (i.e., to access application in the server, page 6, sections 0083-0085); processing the input data at the network server (page 6, sections 0083-0085); and selectively downloading the requested data from the network server to the computer platform of the wireless device (fig. 16).

Regarding claim 17, Kamada teaches a computer readable medium, a program that, when executed, directs a wireless device having a computer platform and a graphic display (fig. 12), the wireless device selectively downloading applications and data from a network server across a wireless network (fig. 16) and performs the method

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comprising: attempting to download data from a network server across the wireless network (accessing the server, page 6, section 0083); receiving a transmitted interactive screen at the computer platform of the wireless device (i.e., illustration of fig. 12 is an interactive page), the interactive screen in response to the data download attempt (page 6, section 0083); and displaying the transmitted interactive screen on the graphic display of the wireless device (fig. 12).

Regarding claims 18 and 19, Kamada teaches allowing the user to interact with the interactive screen at the wireless device (i.e., fig. 12 is interactive form); and sending a signal to the network server from the wireless device indicating user interaction (page 6, sections 0083-0085).

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-6 of patent # 6,721,578 contain every element of claims 1-19 of the instant application and as such anticipate claim 1-19 of the instant application.

"A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or **anticipated by**, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus). " ELI LILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

### ***Response to Arguments***

5. Applicant's arguments filed 10/20/03 have been fully considered but they are not persuasive.

The Applicant argues that Kamada does not teach transmitting an interactive screen associated with downloadable data; Kamada only teaches a screen server. However, in sections 83 and 85 Kamada teaches the user of the cellular phone receives a screen requesting the user to enter information to sign in (functioning as an interactive screen); Kamada further teaches the downloadable application list screen is sent to the cellular phone and displayed on the display.

The Applicant further argues that applicant's claimed invention recites interacting with an interactive screen prior to the wireless device attempting to download data or



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application to the wireless device not another storage. However, it is clear that the downloadable application list screen cannot be received at the cellular phone if the user does not enter proper information in the log in screen (corresponding to interacting screen). Therefore, the rejections are maintained.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tate et al. (US 6,493,751) teaches network configuration method and system for a window-based operating system environment.

Dean et al. (US 6,336,101) teaches tracking of computer components allocated during configuration of computer systems and networks by a simplified user configuration process.

Hall et al. (US 6,356,543) teaches controlling mobile phone system user views from the World Wide Web.

Tang (US 6,185,682) teaches authentication system.

Schwartz et al. (US 6,473,609) teaches method and architecture for interactive two-way communication devices to interact with network.

Jeong et al. (US 2002/0072355) teaches method for distributing application software in mobile communication system.

Kishimoto (US 2002/0013829) teaches information-processing apparatus and information-processing method.

Cote et al. (US 2002/0090986) teaches computer gambling game.

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Salomon (US 2003/0041125) teaches internet-deployed wireless system.

Hook et al. (US 2002/0160752) teaches method for downloading software.

Wensheng (US 2002/0095456) teaches system and computer program for managing information on individuals

Vitikainen et al. (US 2003/0065802) teaches system and method for dynamically producing a multimedia content sample for mobile terminal preview.

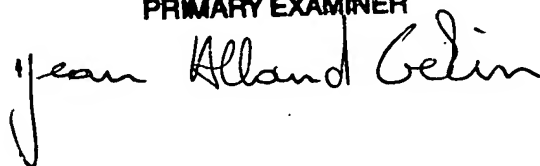
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean A. Gelin whose telephone number is (571) 272-7842. The examiner can normally be reached on 9:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGelin  
August 4, 2005

**JEAN GELIN**  
**PRIMARY EXAMINER**

A handwritten signature in cursive script that reads "Jean Allard Gelin". The signature is written in dark ink and is positioned below the printed name and title.